

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

In Re, JOHN-WALTER E. WEISER, Debtor, TOYOTA LEASE TRUST Movant, V. JOHN-WALTER E. WEISER, and JACK N ZAHAROPOULOS, Trustee, Respondents.	Bankruptcy No. 1:23-bk-01131-HWV Chapter 13 Doc. No.
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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

AND NOW, comes Movant, Toyota Lease Trust (the “Movant”), by and through its undersigned counsel, Bernstein-Burkley, P.C., and in support of its Motion for Relief from the Automatic Stay (the “Motion”), represents as follows:

THE PARTIES

1. Respondent, John-Walter E. Weiser (the “Debtor”), is an adult individual with a place of residence located at 323 Ridge Avenue, McSherrystown, PA 17344.
2. Jack N Zaharopoulos, is the duly appointed Chapter 13 Trustee and is currently acting in such capacity.

JURISDICTION AND VENUE

3. This matter is a core proceeding and this Court has jurisdiction pursuant to 28 U.S.C. § 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Movant seeks relief pursuant to 11 U.S.C. § 362(d) and 11 U.S.C. § 363(e) and FRBP 4001 and 9014.

FACTUAL BACKGROUND

4. On or about May 19, 2023, the Debtor filed a voluntary petition for relief pursuant to Chapter 13 of the Bankruptcy Code. 11 U.S.C. § 101, et seq.

5. On or about May 18, 2022, the Debtor leased a 2022 Toyota Tacoma Crew Cab SR5 4WD, VIN# 3TMCZ5AN1NM496683 (hereinafter the “Vehicle”), pursuant to a Closed-End Motor Vehicle Lease Agreement (the “Lease”) with the Movant, a true and correct copy of which is attached hereto as **Exhibit A**. The Lease will reach maturity on July 18, 2025.

6. Movant has a secured interest in the 2022 Toyota Tacoma Crew Cab SR5 4WD, VIN# 3TMCZ5AN1NM496683, as evidenced by the Certificate of Title attached hereto as **Exhibit B**.

7. The Contract requires monthly payments of \$675.89, which amounts are due on or before the 18th of each month. The Debtor is currently in post-petition arrears to Movant in the amount of \$2,703.34.

8. The gross balance due on the Contract is \$43,957.44.

9. The N.A.D.A. value of the Vehicle is \$43,725.00, as evidenced by a copy of the N.A.D.A. report, attached hereto as Exhibit C. Therefore, there is no equity in the Collateral.

10. Movant is entitled to relief from the automatic stay because Debtor’s failure to make post-petition payments to Movant has resulted in a lack of adequate protection being provided to Movant in the 2022 Toyota Tacoma Crew Cab SR5 4WD, VIN# 3TMCZ5AN1NM496683. 11 U.S.C. §362(d)(1).

WHEREFORE, Movant, Toyota Lease Trust, respectfully requests that this Honorable Court enter an Order, pursuant to 11 U.S.C. § 362(d) granting Movant relief from stay with respect to the 2022 Toyota Tacoma Crew Cab SR5 4WD, VIN# 3TMCZ5AN1NM496683.

Respectfully submitted,

BERNSTEIN-BURKLEY, P.C.

By: /s/Keri P. Ebeck
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Counsel for Toyota Lease Trust

Dated: July 20, 2023

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

In Re, JOHN-WALTER E. WEISER, Debtor, TOYOTA LEASE TRUST Movant, V. JOHN-WALTER E. WEISER, and JACK N ZAHAROPOULOS, Trustee, Respondents.	Bankruptcy No. 1:23-bk-01131-HWV Chapter 13 Doc. No.
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ORDER OF COURT

AND NOW, this ____ day of _____, 2023, upon consideration of the foregoing Motion for Relief from the Automatic Stay, it is hereby ORDERED,

- a. Relief from the Automatic Stay is granted as to the interest of Toyota Lease Trust in the 2022 Toyota Tacoma Crew Cab SR5 4WD, VIN# 3TMCZ5AN1NM496683.
- b. The stay provision of Fed. R. Bankr. P. 4001(a)(3) does not apply to this order.

BY THE COURT:

Honorable Henry W. Van Eck
U.S. Bankruptcy Chief Court Judge

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NOTICE

Notice is hereby given that: Toyota Lease Trust (Movant) filed a Motion for Relief from the Automatic Stay on July 20, 2023.

A hearing on the above referenced matter has been scheduled for:

United States Bankruptcy Court The Sylvia H. Rambo US Courthouse 1501 North 6th Street, Bankruptcy Courtroom 8, 4th Floor Harrisburg, PA 17102	Date: Tuesday, August 1, 2023 Time: 9:30 AM
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Any Objection/response to the above referenced matter must be filed and served on or before
Wednesday, July 17, 2023.

If service was properly made and Respondent(s) fail to file an objection/response by the above specified date, the Court may determine after review of the Motion that no hearing is required and grant the relief requested.

If a default order has not been signed and entered, the parties or their counsel are required to appear in Court at the hearing on the above date and time.

Respectfully submitted,

BERNSTEIN-BURKLEY, P.C.

By: /s/Keri P. Ebeck

Keri P. Ebeck, Esq.

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CERTIFICATE OF NO CONCURRENCE

The undersigned hereby certifies that Debtor's attorney, Nicholas G. Platt, and the Chapter 13 Trustee, Jack N Zaharopoulos, have not consented to relief.

Respectfully submitted,

BERNSTEIN-BURKLEY, P.C.

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Counsel for Toyota Lease Trust

Dated: July 20, 2023

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CERTIFICATE OF SERVICE

I, the undersigned, certify under penalty of perjury that I am, and at all times hereinafter mentioned, was more than 18 years of age, and that on the July 20, 2023, I served copies of the Motion for Relief from the Automatic Stay and Notice of Hearing upon the parties in interest in this proceeding, by first class U.S. Mail, postage prepaid or electronically via the court's CM/ECF system at the following addresses:

John-Walter E. Weiser 323 Ridge Avenue McSherrystown, PA 17344	Nicholas G. Platt Mooney Law 230 York Street Hanover, PA 17331
Jack N Zaharopoulos 8125 Adams Drive, Suite A Hummelstown, PA 17036	United States Trustee 228 Walnut Street, Suite 1190 Harrisburg, PA 17101

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CERTIFICATE OF NO OBJECTION OR RESPONSE

The undersigned hereby certifies that, as of the date hereof, no answer, objection, or other responsive pleading to the Motion for Relief from the Automatic Stay, at Doc. No. 19, and served on the Respondents herein has been received. The undersigned further certifies that the Court's docket in this case has been reviewed and no answer, objection or other responsive pleading to the motion appears thereon. Pursuant to the Notice of Hearing, objections to the motion were to be filed and served no later than July 19, 2023.

It is hereby respectfully requested that the Order attached to the Movant's Motion for Relief from the Automatic Stay be entered by the Court.

Respectfully submitted,

BERNSTEIN-BURKLEY, P.C.

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Counsel for Toyota Lease Trust

Dated: July 20, 2023